

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

NEAL K. OSTLER, Plaintiff, vs. SALT LAKE CITY CORPORATION, et al., Defendants.	MEMORANDUM DECISION AND ORDER GRANTING DEFENDANTS ROCKY ANDERSON, SALT LAKE COMMUNITY COLLEGE, AND UTAH DEPARTMENT OF PUBLIC SAFETY'S MOTIONS TO DISMISS Case No. 2:04-CV-627 TS
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This matter comes before the Court on Defendant Mayor Rocky Anderson's Motion to Dismiss and a Motion to Dismiss filed by Salt Lake Community College and the Utah Department of Public Safety. Defendants filed these Motions pursuant to Rule 4(m) of the Federal Rules of Civil Procedure stating that the 120-day period for service of the summons and complaint has passed. Plaintiff Ostler has failed to respond to either Motion. Defendant Anderson filed a Reply Memorandum in Support of Motion to Dismiss on October 18, 2005. Defendants Salt Lake Community College and the Utah Department of Public Safety joined this Reply on October 24, 2005.

Rule 4(m) states that “[i]f service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified period of time”

Here, Ostler’s Complaint was filed on August 16, 2004.¹ Defendants Debbie Lyons, Kevin Bergstrom, the Utah Labor Commision, Salt Lake City Corporation, Rick Graham, and the Utah Attorney General were served on August 16, 2004.² Defendants Anderson, Salt Lake Community College, and Utah Department of Public Safety have never been served in this matter. It has been far longer than 120 days since this action was filed. As a result, the Court will dismiss this action against Defendants Anderson, Salt Lake Community College, and Utah Department of Public Safety without prejudice, pursuant to Rule 4(m).

It is therefore

ORDERED that Defendant Mayor Rocky Anderson’s Motion to Dismiss (Docket No. 69) is GRANTED. It is further

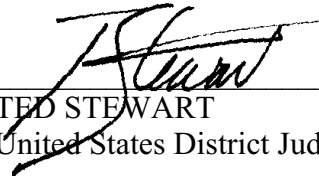
ORDERED that Defendants’ Salt Lake Community College and Utah Department of Public Safety’s Motion to Dismiss Non-Served Defendants (Docket No. 71) is GRANTED.

¹Docket No. 4.

²Docket No. 6.

DATED October 24, 2005.

BY THE COURT:



TED STEWART
United States District Judge